

CHAPTER NO. 709

HOUSE BILL NO. 2908

By Representative Hargrove and Mr. Speaker Naifeh and Representatives West, Lois DeBerry, Arriola, Rinks, McDonald, Kisber, Williams, Fraley, Hood, Miller, Sands, Ridgeway, Fitzhugh, Maddox, Stulce, Robinson, Bowers, Ronnie Cole, Pruitt, White, Cooper, Ritchie, McMillan, Lewis, Mumpower, Sherry Jones, Larry Turner, Langster, Brenda Turner, Cooper, Hargett, Haley, Pleasant, Wood, Kernell, Boyer, Davidson, McDaniel, Chumney, Bone, Pinion, Cross, Tidwell, Brooks, Beavers, Curtiss, Bird, Ferguson, Caldwell, Dunn, Ulysses Jones, John DeBerry, Kent, Ralph Cole, Towns, Givens, Westmoreland

Substituted for: Senate Bill No. 2548

By Senator Kyle

AN ACT to amend Tennessee Code Annotated, Title 65, Chapter 4, Part 1, relative to protecting subscribers to telecommunications services against unauthorized and unfair practices and charges.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 65, Chapter 4, Part 1, is amended by adding the following as a new section:

Section _____. (a) No telecommunications service provider, and no person acting on behalf of any telecommunications service provider, shall designate or change the provider of telecommunications services to a subscriber if the provider or person acting on behalf of the provider knows or reasonably should know that such provider or person does not have the authorization of such subscriber.

(b) No telecommunications service provider, and no person acting on behalf of any telecommunications service provider, shall bill and collect from any subscriber to telecommunications services any charges for services to which the provider or person acting on behalf of the provider knows or reasonably should know such subscriber has not subscribed, or any amount in excess of that specified in the tariff or contract governing the charges for such services.

(c) The Tennessee Regulatory Authority shall establish a consumer complaint form on the internet for reporting telecommunications service providers or persons acting on their behalf who charge the provider of telecommunications services in violation of the provisions of this act. Any internet sites which are maintained by the authority, the General Assembly or the Governor's office shall contain a link to such form.

(d) The Tennessee Regulatory Authority shall adopt rules implementing the provisions of this section, including, without limitation, rules specifying the manner in which subscriber authorization may be obtained and confirmed.

(e) The Tennessee Regulatory Authority may entertain and decide complaints and issue orders, including, without limitation, show cause orders, to enforce the provisions of this section and its rules against any telecommunications service provider, or any person acting on behalf of any telecommunications service provider.

SECTION 2. This act shall not have the effect of superseding any existing rules of the Tennessee Regulatory Authority, or any order or proceeding to enforce such existing rules. Any such existing rules shall remain in effect until such time as the Tennessee Regulatory Authority adopts new rules pursuant to this act.

SECTION 3. This act shall not have the effect of amending or superseding any provisions of the Tennessee Consumer Protection Act found in Tennessee Code Annotated, Title 47, Chapter 18.

SECTION 4. A telecommunications provider or person acting on behalf of a telecommunications provider who violates any provision of this act, any regulation promulgated pursuant to this act or any order issued to enforce the provisions of this act shall be subject to a civil penalty of one hundred dollars (\$100) for each day of any such violation. Such civil penalty shall be due and payable to the authority and shall be credited to the public utility account.

SECTION 5. Any telecommunications provider or person acting on behalf of a telecommunications provider who violates the provisions of this act or regulations promulgated pursuant thereto shall pay damages to each subscriber affected by such conduct in an amount equal to all charges and fees for services for which the subscriber has not subscribed, including all amounts in excess of allowable charges for such services, and any cost incurred to reinstate the subscriber's original telecommunications service.

SECTION 6. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: March 26, 1998




**JIMMY RAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES**



**JOHN S. WILDER
SPEAKER OF THE SENATE**

APPROVED this 6th day of April 1998



DON SUNDQUIST, GOVERNOR